

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Mikell Nelson, #70685,)	
)	C/A No.: 0:05-1618-MBS
Plaintiff,)	
)	
vs.)	
)	
Dr. R. Triplett, Director of Ops,)	O R D E R
Pam Caldwell, and Nurse Morales,)	
)	
Defendants.)	
_____)	

At the time of the underlying events, Plaintiff Mikell Nelson was a pretrial detainee housed at the Charleston County Detention Center.¹ Plaintiff, appearing pro se, asserts that he did not receive adequate medical care while in detention. Plaintiff brings this action pursuant to 42 U.S.C. § 1983.

This matter is before the court on Defendants Triplet, Caldwell, and Morales' motion for summary judgment or in the alternative to dismiss filed October 31, 2005. By order filed November 2, 2005, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Defendants filed additional attachments to the motion on November 7, 2005. A second Roseboro order was issued on December 7, 2005. Plaintiff filed no response to Defendants' motion.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On March 6, 2006, the Magistrate Judge filed a Report and Recommendation in which he recommended, among other things, that Defendants' motion be granted and that the case be dismissed without prejudice for

¹ Plaintiff was released from detention. After his release, copies of court papers were forwarded to Plaintiff at his last known address: Post Office Box 927, Ladson, South Carolina 29456.

failure of Plaintiff to exhaust his administrative remedies as required by 42 U.S.C. § 1997e. Plaintiff filed no response to the Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the recommendation of the Magistrate Judge that the case be dismissed without prejudice because Plaintiff has not exhausted his administrative remedies. Accordingly, Defendants' motion to dismiss is **granted**.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

March 30, 2006
Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.